

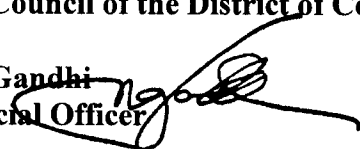
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: March 5, 2009

SUBJECT: Fiscal Impact Statement: "Domestic Partnership Judicial
Determination of Parentage Act of 2009"

REFERENCE: Bill 18-66, draft Committee Print dated February 23, 2009

Conclusion

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan to implement the provisions of the proposed legislation. Though implementation of the proposed bill could conceivably result in the loss of federal child support dollars through a finding of non-compliance with federal regulations, evidence suggests that this would be highly unlikely. The "Financial Plan Impact" section of this document provides more details on this analysis.

Background

The proposed legislation is primarily intended to broaden domestic partners' parentage rights in the District to make these rights more consistent with established District laws applicable to married couples.

Among other changes to District law, the proposed legislation would:

- Permit the domestic partner of a mother to be included on a birth certificate as a parent of the child;
- Provide the Superior Court with the authority to waive an adoption home study where the prospective adoptee is the domestic partner of the natural parent;
- Provide that a child born to parents in a domestic partnership is born in wedlock;

- Clarify that a child's relationship to his or her parents is not dependent upon the parents being married or in a domestic partnership;
- Provide a presumption that the domestic partner of a woman who bears a child is a parent of the child;
- Provide the Superior Court with certain enumerated parental determination abilities;
- Clarify the parentage of a child born through donor insemination;
- Clarify that the District would be required to give full faith and credit to determinations of parentage made by other states;
- Provide adjudication procedures for persons seeking to establish parentage;
- Exclude the requirement that the Superior Court order genetic testing in a proceeding in which the child was conceived through artificial insemination and the donor is not the parent;
- Exclude such a requirement where the child has a presumed parent and no proceeding to rebut the presumption was filed within statutorily prescribed time frames;
- Prescribe circumstances under which the IV-D agency¹ must require genetic testing where a child does not have a presumed parent;
- Include domestic partners within the definition of parents;
- Include domestic partnership between the defendant and the victim as a defense to sexual abuse of a ward, patient, or client (currently it is only available to married couples); and
- Clarify that domestic partners may hold real and personal property as tenants by the entirety.

Financial Plan Impact

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan to implement the provisions of the proposed legislation. The Office of the Attorney General (OAG) and the Department of Health (DOH) could implement the provisions of the proposed bill with existing resources.

The primary financial risk associated with implementing the proposed legislation is the possibility that the Office of Child Support Enforcement (OCSE) within the federal Department of Health and Human Services (HHS) would conclude that the District is out of compliance with federal regulations² and would withhold the District's entire 66 percent federal share of child support service dollars. In addition, if the District were unable to make up this shortfall with local dollars, the District could risk losing the federal TANF³ block grant because having a functioning child support program is a condition of receiving TANF dollars.

¹ As defined in D.C. Code § 7-201, "IV-D agency" means "...the organizational unit of the District government...that is responsible for administering...the District's State Plan under title IV, part D, of the (federal) Social Security Act...pertaining to parent locator services, paternity establishment, and the establishment, modification, and enforcement of support orders."

² Primarily, regulations stemming from the Defense of Marriage Act. Passed September 21, 1996, P.L. 104-199, 110 Stat. 2419.

³ Temporary Assistance for Needy Families.

However, several other states⁴ have implemented similar measures over the past few years and to-date none have lost or been threatened with the loss of any federal child support dollars. In addition, public statements released by the White House⁵ strongly suggest that the proposed bill is consistent with the civil rights agenda of the current administration. Finally, if OCSE made a determination that the District was out of compliance with federal regulations, the District would have at least five months to one year (depending on the type of finding) to take corrective action before penalties would be imposed. Therefore, it seems highly unlikely that passage of the proposed bill would result in the loss of federal child support or TANF dollars.

⁴ These include Massachusetts, New Jersey, California, Oregon, New Hampshire, Connecticut, and Vermont.

⁵ See http://www.whitehouse.gov/agenda/civil_rights/. Accessed on February 24, 2009.